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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/941,435	08/28/2001	Curtis E. Jutzi	42390P11868	6384

8791 7590 02/10/2005

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EXAMINER

LAMARRE, GUY J

ART UNIT	PAPER NUMBER
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2133

DATE MAILED: 02/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/941,435

Applicant(s)

JUTSI

Examiner

Guy J. Lamarre, P.E.

Art Unit

2133

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10/7 & 12/6 -2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,5-11,13-18 and 20-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,5-11,13-18 and 20-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 August 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>12/6/04</u> . | 6) <input type="checkbox"/> Other: _____ |

FINAL OFFICE ACTION

0. This office action is in response to Applicants' Amendment of 10/7/2004. The Examiner has considered the IDS of 12/6/2004.

0.1 **Claims 1, 2, 6, 9, 16-18, 21** are amended, **Claims 4, 12, 19** are cancelled. **Claims 1-3, 5-11, 13-18, 20-23** remain pending.

0.2 The double patenting rejections of record are maintained pending Applicants' submission of terminal disclaimer.

0.2.1 The rejections under 35 U.S.C. 112 of record are withdrawn in response to Applicants' Amendments.

Abstract

1. The abstract of the disclosure is objected to because said abstract contains 'predictions on unreported factors' that should be corrected to reflect the gist of the claimed invention.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

2.1 **Claims 1-3, 5-11, 13-18, 20-23** are rejected under 35 U.S.C. 102(e) as being anticipated by **Perahia** (US Patent No. 6,320,850; filed 24 Apr. 1998).

As per Claims 1-3, 5-11, 13-18, 20-23, Perahia anticipates the claimed invention because Fig. 1 depicts dynamic ECC adaptive means comprising means for: satellite connection or broadcast communications (**Claims 8, 15, 23**) for TV/telephone/Internet networks at col. 4 line 47 (**Claims 7, 13, 22**), wherein control logic e.g., Fig. 3 **block 252** selects appropriate ECC from plural ECC levels to be performed on source data based on compiled statistics acquired in

Art Unit: 2133

real time by channel measurement Fig. 3 **block 250**, such as environmental/RF attenuating conditions (e.g., rain storm effects at cols. 1 line 30 and 5 line 41, **Claims 2-3, 10-11, 17-18**), or QoS (**Claims 5, 14, 20**) at col. 6 line 21, said ECC being dynamically adjusted (**Claims 1, 6, 9, 14, 16, 20, 21**) at Fig. 3 **blocks 236** in response to said channel attenuation or channel quality stats thus compiled.

Said source data to be transmitted or broadcasted from source to destination as depicted in, e.g., Fig. 1 (**Claims 7, 13, 22**).

Said plural ECC levels (**Claims 5, 14, 20**) to be of forward error correction type comprising concatenated/convolutional-coding types at cols. 1 line 55 and 6 line 60, and block coding types at col. 4 line 51. Said concatenated/convolutional coding types comprising well-known features such as means to increase coding rate via puncturing at col. 7 line 1, or interleaving means.

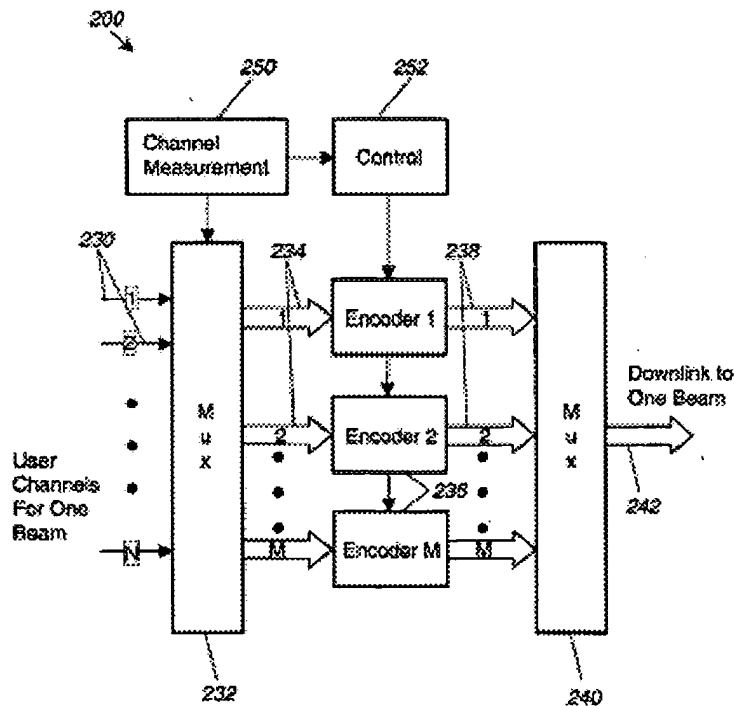


Figure 3

Art Unit: 2133

Perahia discloses the claimed hardware/apparatus and software/machine-readable medium implementation means in Figs. 1-4 and related description at col. 1 line 5 et seq.

Conclusion

3. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 609(B)(2)(i). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

3.1 Any response to this action should be mailed to:

Commissioner of Patents and Trademarks, Washington, D.C. 20231

or faxed to: (703) 872-9306 for all formal communications.

Hand-delivered responses should be brought to Customer Services, 220 20th Street S., Crystal Plaza II, Lobby, Room 1B03, Arlington, VA 22202.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Guy J. Lamarre, P.E., whose telephone number is (571) 272-3826. The examiner can normally be reached on Monday to Friday from 9:30 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Albert De Cady, can be reached at (571) 272-3819.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (571) 272-3609.

Art Unit: 2133

Information regarding the status of an application may also be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Guy J. Lamarre, P.E
Primary Examiner
1/27/05
